

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7871 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
HIRABHAI HAMIRBHAI

Versus

COMMISSIONER OF POLICE

-----  
Appearance:

MR ANIL S DAVE for Petitioner

MR. NIGAM SHUKLA, Addl. G.P. for the respondents.

-----  
CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 08/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 18.8.1996 passed by the Police Commissioner, Rajkot City whereby the petitioner has been detained under the Gujarat Prevention of Anti Social Activities Act, 1985. The petitioner is under detention lodged at Baroda Jail, Baroda.

This Special Civil Application was filed on

14.10.1996 and on 15.10.1996 rule returnable was issued. So far neither any reply has been filed nor affidavit of the detaining authority has been filed.

The grounds of detention enclosed with the detention order show that three criminal cases for offences under the Bombay Prohibition Act were registered against the petitioner. Besides this, the detaining authority has also taken into consideration the statements made by certain witnesses against the petitioner's anti-social activities. The petitioner has been found to be engaged in the business of unauthorised liquor. Statements were recorded on 14.8.1996 and 15.8.1996. The petitioner has been found to be engaged in anti-social activities and he has been detained as a bootlegger.

The detention order has been challenged on more than one grounds but the learned counsel has stressed that no case of breach of public order is made out. In view of the reasons given in the judgement dated 4.10.1996 in Special Civil Application No. 3879 of 1996, it is clear that the allegations and material relied upon by the detaining authority against the petitioner do not constitute a case of breach of public order. It is at the most a case of breach of law and order. The detention order deserves to be set aside on this ground alone.

Accordingly, the Special Civil Application is allowed and the impugned detention order dated 18.8.1996 passed by the Police Commissioner, Rajkot City, is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made absolute.

00000

pkn